

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

IN RE: : **CHAPTER 7**
: :
HCG SOFTWARE, LLC, : **CASE NO. 15-63347-CRM**
: :
Debtor. : :
:

TRUSTEE'S OBJECTION TO DISMISSAL OF CHAPTER 7 CASE

COMES NOW S. Gregory Hays (the “Trustee”), as Chapter 7 Trustee for the estate (the “Estate”) of HCG Software, LLC (the “Debtor”), by and through undersigned counsel, and files this his Objection to Dismissal of this Chapter 7 case without a hearing, and respectfully shows this Court as follows:

1. On July 16, 2015 (the “Petition Date”), Debtor filed a voluntary petition under Chapter 7 of Title 11 of the United States Code. Shortly thereafter, Trustee was appointed and remains the duly acting Chapter 7 trustee for the Estate.
2. Debtor is a corporation, and its Chapter 7 petition was filed by a licensed attorney, Robert B. Campos.
3. On January 30, 2017, the Court entered an Order [Doc. No. 59] which granted the Motion of Robert B. Campos to withdraw as counsel for the corporate Debtor. The Order further noted that a business organization cannot appear *pro se* and provided that Debtor “has ten days from the entry of this order to obtain new counsel.” The Order further provided that “Failure to obtain new counsel may result in dismissal without opportunity for hearing.”

4. Trustee shows that this is an asset case, and the fact that the corporate debtor is no longer represented by counsel should not result in a dismissal of this Chapter 7 case to the prejudice and detriment of Debtor's creditors.

5. The Chapter 7 petition was filed by a licensed attorney for the corporate Debtor and is therefore not void ab initio and not a nullity. *See In re Rhodes, Inc.*, Nos. 04-78434, 04-78436, 2007 WL 7143414, at *1 (Bankr. N.D. Ga. Oct. 18, 2007) ("Although a corporation may not participate without counsel in litigation in federal court, Plaintiff cites no procedural rule or law requiring a corporation to have counsel to 'sponsor' pleadings previously filed by counsel. The answer [filed by the defendant corporation's counsel who had later been permitted to withdraw] is not the equivalent, functional or otherwise, of an answer filed by a corporation on its own without counsel because it was filed by an attorney who then represented Defendant in this proceeding.... The teaching of *Palazzo* [v. *Gulf Oil Corp.*, 764 F.2d 1381 (11th Cir.1985)], is that papers filed by a corporation not represented by an attorney *at the time those papers are filed* will not be considered. The case does not remotely imply, let alone hold, that pleadings filed by an attorney on behalf of a corporation are void or are subject to being stricken merely because the corporation ceases to be represented by counsel and does not obtain substitute counsel.").

6. Trustee requests that this Chapter 7 case not be dismissed. Alternatively, Trustee requests that the Court schedule a hearing to consider whether dismissal of the Chapter 7 case would be prejudicial to creditors.

WHEREFORE, Trustee prays that this Objection to Dismissal be granted and that the Court decline to dismiss this Chapter 7 case. Alternatively, Trustee requests that the Court schedule a

hearing to determine whether dismissal is necessary or desirable under the circumstances. Trustee further requests that the Court grant such other relief as is just and proper.

This 6th day of February, 2017.

Respectfully submitted,

/s/ William D. Matthews

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CERTIFICATE OF SERVICE

This is to certify that I have this day served copy of the Trustee's Objection to Dismissal of Chapter 7 case by depositing in the United States mail a copy of same in a properly addressed envelope with adequate postage affixed thereon to assure delivery to:

Office of the United States Trustee
362 Richard B. Russell Bldg.
75 Ted Turner Drive, SW
Atlanta, GA 30303

S. Gregory Hays
Hays Financial Consulting, LLC
3343 Peachtree Road, NE
East Tower, Suite 200
Atlanta, GA 30326

HCG Software, LLC
c/o William C. Smith, Jr.
507 Avery Creek Pointe
Woodstock, GA 30188

This 6th day of February, 2017.

ARNALL GOLDEN GREGORY LLP

By:/s/ William D. Matthews

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